IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.163 (MS) OF 2004

Committee of Management,
Nehru Memorial Junior High School,
Bahadurpur Jatt, District-Haridwar,
Through its Secretary Yogendra Pal Singh,
S/o Vedpal Singh. .....Petitioner.

Versus

1. District Basic Education Officer, Haridwar.
2. State of Uttaranchal. ……..Respondents.

Dated: 10.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri V.B.S. Negi, Advocate for the petitioner and Sri Lok Pal Singh, Advocate for the respondents no.3 to 8.

2. By the present writ petition, the petitioner has prayed for a writ of Certiorari quashing the order dated 9th February, 2004 passed by the District Basic Education Officer, Haridwar.

3. Briefly stated, there is society known as Nehru Memorial Shiksha Parishad, Bahadurpur Jatt, District-Haridwar and the provisions of the U.P. Basic Education Act, 1962 is fully applicable.

4. According to the petitioner last election of the Management was held on 29.10.2000 and was approved by the District Basic Education Officer, Haridwar and the institute is in grantt-in-ad list of the State Government and the provisions of the U.P. Junior High School (Payment of Salaries

to the teachers and other employees) Act, 1978 is fully applicable to the said institution.

5. The grievance of the petitioner is that on 25.11.2000, the District Basic Education Officer without providing any opportunity to the petitioner Committee of Management by addressing the petitioner as Ex. President and Vid Pal Singh Ex-Manager has held the election dated 29.10.2000 to be illegal and the single operation has been passed.

6. The petitioner Committee of Management aggrieved by the said order, preferred Writ Petition No. 183 of 2000 challenging the single operation, where the operation was stayed.

7. However, on 15.12.2000, the District Basic Education Officer declared the Committee of Management and suspended the single operation. However, he has recognized the rival on 4th May, 2002 as will appear from the order dated 8th March, 2002. The order is quoted below:-

"इस कार्यालय के पत्रांक/बेसिक/ 3344–47 /2000–2001 दिनांक 25.11.2000 के द्वारा नेहरू मेमोरियल जूनियर हाईस्कूल बहादुर पुर पट्ट हिरिद्वारक्रकी प्रबन्ध समिति का अग्रिम आदेप्रों तक ''एकल संचालन'' किया गय था, को माननीय उच्च न्यायालय नैनीताल की रिट पीटीप्रन संख्या 183/2000 दिनांक 16.3.2001 के अनुपालन में विद्यालय की प्रबन्ध समिति को वैधानिक मानते हुए तत्काल प्रभाव से ''एकल संचालन'' को समाप्त करते हुए माननीय उच्च न्यायालय के अन्तिम निर्णय होने तक पूर्ववत मान्य किया जाता है।

8. In fact, the petitioner has challenged the jurisdiction of the District Basic Education Officer by accepting the rival committee. The petitioner has filed Writ

petition no. 220 of 2002 where the Division Bench of this Court on 24.05.2002 stayed the operation of the order dated 04.05.2002.

9. In pursuance of the aforesaid order dated 24.05.2002, the Committee of Management of the petitioner continued performing the duties and fresh election had taken place in accordance with the election programme and result was declared on 30.01.2004 and the papers were sent to the District Basic Education Officer for necessary action.

10. On 9th February, 2004, the District Basic Education Officer has declared the Committee of Management of the petitioner as invalid.

11. The grievance of the petitioner is that no opportunity was given by the District Basic Education Officer before passing the said order and he has no jurisdiction to get the same declared as invalid and only remedy lies under Section 25(1) of the Society Registration Act.

12. However, after hearing both the parties, since the dispute is with regard to the election of the committee of management for which the election had already taken place on 30.01.2004, the remedy lies to approach the Deputy Director of Education, who shall decide the dispute.

13. So far the order passed by the District Education Officer treating the election to be invalid is concerned, he has no jurisdiction in the matter and therefore, the order passed by him being without jurisdiction is wholly illegal. However, since the dispute has arisen out of the election held on

29.10.2000 and secondly whether the committee of management has been properly elected. The same shall be considered and decided by the Regional Director of Education within a period of two months. The order passed by the Regional Deputy Director of Education, therefore shall be final and the Committee of Management shall be given charge in accordance with the order passed by the Regional Deputy Director of Education. It is just surprising that after the election of the Committee of Management, which was held on 29th October, 2000, which was approved by the District Basic Education Officer, no election had taken place except in the year, 2004 and the institution is suffering.

14. The matter therefore, is referred to the Regional Deputy Director of Consolidation, who shall decide the dispute between the parties witin a period of two months.

15. Subject to the aforesaid, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

10.08.2006
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